

THE OFFICE ACTION

In the Office Action issued July 11, 2003, the Examiner made the following objections/rejections.

The Examiner rejected claims 1-3, 6, 7, 9, 10 and 21-23 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 3,791,888 to Hudson ("Hudson").

REMARKS

The Examiner rejected claims 1-3, 6, 7, 9, 10 and 21-23 under 35 U.S.C. §103(a) as being unpatentable over Hudson. Applicants respectfully traverse.

Hudson discloses a solid propellant composition comprising an inorganic oxidizing salt and an uncured polymer containing at least one acid group. Hudson teaches that the uncured polymer may be a conjugated diene, such as butadiene, and contain an optional vinyl-substituted aromatic compound, such as styrene, anionically polymerized in the presence of an organolithium initiator. The polymers are terminated by treating with suitable reagents such as carbon dioxide, sulfonyl chloride, and the like and then hydrolyzing the reactive groups of the resultant polymer to provide polymers containing terminal acidic groups (col. 4, lines 50-58).

In support of her argument that the polymers disclosed in Hudson would have the recited bulk and solution viscosities, the Examiner states "[a] skilled artisan would have also expected Hudson's intermediate product of carboxylate terminated polymer with molecular weights about 150,000 to have a bulk viscosity and solution viscosity in the ranges of the instant claims because the molecular weight of Hudson's polymer is in the range of that of the instant claims and the viscosity properties are determined by the molecular weight" (July 11, 2003 Office Action, page 3-4).

Despite the Examiner's arguments, there is absolutely no indication that the polymers of Hudson would possess the recited viscosity values.

It is improper for the Examiner to argue that the polymers of Hudson would inherently have the claimed viscosity values. Inherency must be a necessary result, not

merely a possible result. *In re Oelrich*, 212 USPQ 323 (CCPA 1981). Here, there is no indication that the polymers of Hudson would necessarily have the claimed viscosity.

Further, there is no indication that the polymer disclosed in Hudson is a baleable polymer, only the Examiner's unsupported contention. There is no indication that the polymers of Hudson possess this property. For at least these reasons, Applicants submit that Hudson fails to render the present claims unpatentable under §103.

CONCLUSION

Applicants respectfully request reconsideration of the application in light of the above amendments and comments. Applicants submit that all claims are patentable over the art of record. If there are any issues remaining, the Examiner is encouraged to contact the undersigned in an attempt to resolve any such issues.

If any fee is due in conjunction with the filing of this Response, Applicants authorize deduction of that fee from Deposit Account 06-0308.

Respectfully submitted,

**FAY, SHARPE, FAGAN,
MINNICH & MCKEE, LLP**

Date: February 17, 2004



Scott A. McCollister, Reg. No. 33,961
Joseph E. Waters, Reg. No. 50,427
1100 Superior Avenue, Seventh Floor
Cleveland, OH 44114-2518
216/861-558